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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)
2646-000001

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On June 30, 2006

Signature

Typed or printed name Claudia J. Richard

Application Number
10/693,136

Filed
October 24, 2003

First Named Inventor
David M. Allen

Art Unit
3643

Examiner
Son T. Nguyen

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).
Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor

☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)

☐ attorney or agent of record.
Registration number _____

☒ attorney or agent acting under 37 CFR 1.34.
Registration number if acting under 37 CFR 1.34 45,512

Signature

Michael D. Zalobsky
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(248) 641-1600
Telephone number

June 30, 2006
Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☐ *Total of _____ forms are submitted.



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.: 10/693,136
Filing Date: October 24, 2003
Applicant: David M. Allen
Group Art Unit: 3643
Examiner: Son T. Nguyen
Title: PROTECTIVE GROUND MAT
Attorney Docket: 2646-000001

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Sir:

In response to the Final Office Action mailed April 3, 2006, please consider the remarks set forth below.

Claims 1-19 are pending in the application. Claims 1, 2, 4-5 and 7-15 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Crawley (U.S. Pat. No. 5,085,001) in view of Hinsperger (U.S. Pat. No. 5,070,643). Claim 3 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Crawley in view of Hinsperger and Hansen (U.S. Pat. No. 6,128,852). Claim 6 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Crawley in view of Hinsperger and McMurtney (U.S. Pat. No. 5,058,317). Claim 16 stands rejected under 35 U.S.C. § 103(a) as being

unpatentable over Crawley in view of Hinsperger and Hansen. Claims 17-19 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Hansen in view of Hinsperger.

Applicant respectfully submits that the Office has not presented a prima facie case of obviousness and as such, the review of this submission in a panel review is appropriate.

Regarding the rejection of Claims 1, 2, 4-5 and 7-15 Appellant refers the Office to the remarks on pages 6-8 of Applicant's After-Final Amendment filed June 5, 2006.

Regarding the rejection of Claim 3, Appellant refers the Office to the remarks on pages 8-9 of Applicant's After-Final Amendment filed June 5, 2006.

Regarding the rejection of Claim 6, Appellant refers the Office to the remarks on pages 9-10 of Applicant's After-Final Amendment filed June 5, 2006.

Regarding the rejection of Claim 16, Appellant refers the Office to the remarks on pages 10-11 of Applicant's After-Final Amendment filed June 5, 2006

Regarding the rejection of Claims 17-19, Appellant notes that Hansen appears to disclose a landscaping tarp that may be positioned about a bush or small tree to permit cut leaves and twigs to fall and collect thereon as the bush or tree is trimmed. Figure 3 of Hansen illustrates the tarp in a condition wherein leaves and twigs are being carried off after cutting has been completed.

Appellant next notes that Hinsperger appears to be directed to a device and method for grass restoration and seed germination. Hinsperger employs a removable cover (2) that can be selectively coupled to the ground via a plurality of U-shaped wire stakes (8). Hinsperger notes that in areas of high wind, plastic loop members (10) may be coupled to the cover (2) and that ropes (12) may be received through holes in the plastic loop members (10) and secured at opposite ends to the stakes (8). Applicant notes that the ropes (12) of Hinsperger simply extend through holes in the plastic loop members (10) and thus do not tension or adjust the size and/or shape of the perimeter of the panels (4) that make up the cover (2), but rather simply lie across the panels (4) in a manner that limits the movement of the cover (2). Appellant notes that the rope may be able to apply a compressive force to the surface of the panels, but it does not appear to be possible to apply tension through the rope.

In contrast, Claim 17 recites "tensioning the base after it has been secured to the ground so that it conforms to a contour of the ground".

Applicant submits that the Examiner has not presented a prima facie case of obviousness in that there is no suggestion in the art for the combination of the Hansen and Hinsperger references and that each limitation of Claims 1 and 17 is not taught or suggested by the combination of Hansen and Hinsperger.

Regarding the suggestion for the combination, Applicant notes that as the Hansen tarp is configured to be placed about a tree or bush just prior to a trimming operation and removed therefrom immediately after the trimming operation, there is no need or suggestion in these references to employ the stakes and rope of Hinsperger reference. In this regard, the stakes and rope of Hinsperger would be undesirable in that they would impede efficient removal of the tarp.

Moreover, as the rope of Hinsperger does not appear to be capable of applying tension, it is not a tensioner. The combination of the Hansen and Hinsperger references, therefore, does not teach or suggest a method that includes tensioning the base after it has been secured to the ground as recited in Claim 17.

In view of the above-remarks, Applicant submits that the Examiner has not presented a prima facie case of obviousness and as such, respectfully requests that the Examiner reconsider and withdraw the rejection of Claim 17 under 35 U.S.C. §103(a).


Applicant notes that Claims 18 and 19 depend from Claim 17 and as such, Applicant submits that these claims are in condition for allowance for the reasons set forth for Claim 17, above.

CONCLUSION

Prompt and favorable consideration of this request is respectfully requested. If the Office believes that personal communication will expedite prosecution of this application, the Office is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

Dated: 30 June 2006

By: 

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